IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION 1696 OF 2005

Mr. Girdharilal Tulsian` ... Applicant

V/s

The State of Maharashtra & Anr. ... Respondents

Ms. Seema Gupta holding for Shri A.P. Saraogi for applicant

Shri A.S. Shitole, APP for the State

Coram : V.M. Kanade, J.

Dated : 05/04/2005

P.C. :-

. I have heard learned counsel appearing for the applicant and APP for the State.

. The applicant is challenging the order of issuance of process passed by the Metropolitan Magistrate on the complaint filed under section 138 of Negotiable Instruments Act by the complainant/respondent. It is submitted by learned counsel appearing for the applicant that the applicant is not a Director of the company and there are no averments in the complaint in which role of the petitioner has been mentioned. It is submitted that therefore, process is liable to be quashed. It is not possible to accept the submission made by the learned counsel appearing for the applicant. In para-2 of the complaint there are specific averments that applicant/accused No.5 as an officer was also in charge and responsible for the conduct of business of the company at the relevant time. It is also stated in the para-4 of the complaint that cheques were signed by

applicant

and authorised signatory. Criminal application is, therefore disposed of.

All the questions raised in this application are however kept open. If the application is made for exemption by the applicant, the trial court shall consider the questions and directions to be given to the applicant to remain present in the court only when his presence is required. Accordingly, criminal application is disposed of.

(V.M. Kanade, J.)